



FILED
OFFICE OF THE
SECRETARY

DEPARTMENT OF THE NAVY

OFFICE OF COUNSEL
NAVAL UNDERSEA WARFARE CENTER DIVISION
1176 HOWELL STREET
NEWPORT RI 02841-1708

ORIGINAL

2005 SEP 12 P 2:54

IN REPLY REFER TO

Ser 500OC/324
September 7, 2005

FEDERAL ENERGY
REGULATORY COMMISSION
Ms. Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

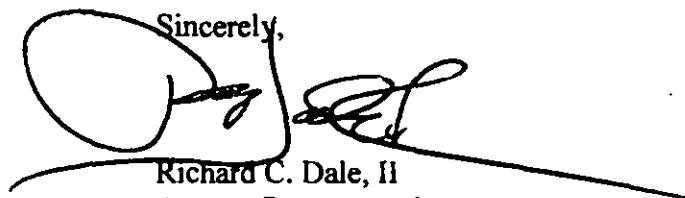
001
Subj: Docket No. CP04-36-000, In the Matter of Weaver's Cove Energy, LLC

Dear Ms. Salas: CP04-41-001 CP04-43-001
CP04-42-001

Enclosed please find the original and 14 additional copies of this Agency's
Supplemental Filing in the above referenced application.

Thank you for your attention to this matter.

Sincerely,



Richard C. Dale, II
Agency Representative

IN THE
UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of Weaver's Cove Energy, LLC))))	Docket No. CP04-36- 0000 001 CP04-41-001 CP04-43-001 CP04-42-001
---	------------------	---

**SUPPLEMENTAL FILING IN SUPPORT OF
MOTION TO INTERVENE,
MOTION TO REOPEN, AND
REQUEST FOR REHEARING
IN THE APPLICATION OF WEAVER'S COVE ENERGY, LLC**

Pursuant to Rules 214, 716, and 713 of the Federal Energy Regulatory Commission's (hereinafter "Commission") Rules of Practice and Procedure, 18 CFR §§ 385.214, 385.716, and 385.713, on August 12, 2005, the Naval Undersea Warfare Center Division, Newport (hereinafter "NUWCDIVNPT") filed a Motion to Intervene, a Motion to Reopen, and a Request for Rehearing in the application docketed above and filed by Weaver's Cove Energy, LLC (hereinafter "Weaver's Cove"). NUWCDIVNPT hereby submits the following supplemental points of clarification in support of its initial Motions and Request. As necessary, reference will be made to the "Answer of Weaver's Cove Energy, LLC to Late Intervention of Naval Undersea Warfare Center Division, Newport" (hereinafter "Answer") dated August 17, 2005.

Points of Clarification

- In support of its claim that NUWCDIVNPT received ample public notice of its project, the Answer relies on security meeting invitations to Naval Station Newport, and a briefing to the Naval War College. NUWCDIVNPT, however, is a separate and distinct entity; one acknowledged by Weaver's Cove as one of a number of "sensitive Bay users."¹ As such, NUWCDIVNPT should have received direct communications throughout the environmental planning process. Had Weaver's Cove provided notice of the potential impacts to the Department of the Navy, distribution down through the chain of command would have been an internal responsibility. By choosing to communicate with individual sub-components within the Navy, Weaver's Cove did so at its own risk.

¹ Answer at p.10.

- Weaver's Cove attempts to downplay the requirements of the Council on Environmental Quality (CEQ), and suggests that NUWCDIVNPT must have received "more than adequate public notice" of the project.² As pointed out in our original filing, CEQ regulations require that organizations reasonably expected to be interested in a matter receive notice by mail. As a "sensitive Bay user," NUWCDIVNPT should have received such written notification. The Answer is silent as to this shortcoming. Additionally, notice of a proposal does not necessarily equate to notice of its potential impacts, which needed to be the true focus.

- NUWCDIVNPT's interest extends beyond the designated restricted area within the Bay. Of necessity, test items and support vessels must launch from the Stillwater Basin section of the NUWCDIVNPT facility. They then traverse the main shipping channel in the East Passage both going to, and returning from, the designated test areas. All such East Passage transits would clearly be impacted by the moving safety and security zone. This activity was described and examined in an Environmental Assessment for the Construction and Operation of a Shore-Based Launch Facility for the Naval Undersea Warfare Center, Division Newport. A Finding of No Significant Impact was issued for that proposal in December of 2000, and is a matter of public record.

- In referencing the Affidavit of Mr. John Blair McIntyre, the Answer misleadingly states that "there have been numerous instances where NUWC personnel were made aware of the" project.³ A reading of the Affidavit fails to substantiate this claim. Mr. McIntyre refers only to an invitation and participation by representatives of Naval Station Newport, a subsequent visit to the Naval War College, and a meeting attended by a representative of the Navy's Defense Program Office for Mission Assurance. None of these entities have direct responsibility for NUWCDIVNPT's mission or functions.

- The width of the safety and security zone that would surround the LNG tankers is subject to some dispute.⁴ The Final Environmental Impact Statement (EIS) suggests that it would extend "approximately 1,500 feet on either side of the LNG vessel."⁵ The Coast Guard, however, has final regulations in place at 33 CFR § 165.121 which clearly establishes the width of the zone at

² Answer at p.3.

³ Answer at p.4.

⁴ Answer, footnote 10, at p.7.

⁵ FEIS at p.4-270.

1000 yards (3000 feet) on either side of an LNG vessel transiting Narragansett Bay.⁶ Any reduction in the width of the zone would appear to require a formal regulatory amendment by the Coast Guard. This disparity was not addressed in the Final EIS.

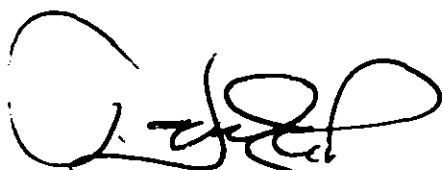
Conclusion

NUWCDIVNPT's presence in, and long standing usage of, the lower Narragansett Bay is unquestioned. The Weaver's Cove project has the potential to significantly impact NUWCDIVNPT's usage of the Bay. Failure to directly involve NUWCDIVNPT in the planning process creates significant gaps in the record. By identifying this gap, NUWCDIVNPT has demonstrated the necessary good cause for intervention at this time. Reopening of the evidentiary record is necessary to provide the Commission with the information necessary for a more complete understanding of the potential impacts of project approval.

Certificate of Service

I hereby certify that I have this day served the foregoing document upon the persons designated by the Secretary of the Federal Energy Regulatory Commission to receive service in this proceeding by depositing copies thereof in the United States Mail, first class postage prepaid.

Dated at Newport, RI, this 7th day of September, 2005.



RICHARD C. DALE, II
Counsel



DAVID B. MERCIER
Associate Counsel

Naval Undersea Warfare Center Division
1176 Howell Street
Newport, RI 02841-1708
Office 401.832.3653

⁶ Even at 500 yards (1,500 feet), implementation of the safety and security zone at the frequency proposed poses a potential for significant adverse impact to NUWCDIVNPT's mission.